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FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

OCT 31 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)	
)	
Policies and Rules)	CC Docket No. 93-22
Implementing the Telephone)	
Disclosure and Dispute)	
Resolution Act)	

REPLY OF SOUTHWESTERN BELL TELEPHONE COMPANY

The comments filed in this docket show widespread support for the Commission's efforts to revise the rules promulgated pursuant to the Telephone Disclosure and Dispute Resolution Act (TDDRA) to protect end users from unauthorized charges for information services. Southwestern Bell Telephone Company's (SWBT's) Reply is arranged under five topics and is directed not only to the problems of unauthorized charges over 800 access codes, but also the emerging problem of unauthorized charges for "services" allegedly tariffed.

I. THE SUGGESTION THAT 800 INFORMATION SERVICE CHARGES SHOULD NOT BE BILLED BY A LOCAL EXCHANGE CARRIER IS MISPLACED.

To free end users from unwanted charges, several have suggested that the Commission ban local exchange carriers (LECs) from billing for information service charges accessed through an 800 number.¹ This is not a solution.

¹See Comments of Association of Information Providers at p. 2 and Comments of Info Access at p. 13.

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SWBT's experience teaches that if 800 number billing is prohibited, certain Information Providers (IPs) will continue to submit charges for their programs to LECs for billing, along with other telephone company charges. Until December 1993, SWBT's billing agreements contained an absolute prohibition against end user billing for charges to 800 numbers. Despite that contractual prohibition, billing customers submitted such charges to SWBT for billing but used a record format that did not disclose that the underlying call had been placed to an 800 number. SWBT is advised that others whose contracts prohibit billing charges to 800 numbers are experiencing a level of end user complaints similar to SWBT's, with the added difficulty of not knowing what 800 number was dialed, because the billing customers are not including the 800 number digits dialed with their billing record detail. An absolute ban on LEC billing for 800 calls will merely encourage unscrupulous IPs to move programs from 800 numbers access, or to alter the billing record detail for programs offered over 800 numbers, to avoid any LEC mechanized billing edits to reject 800 charges. IPs will continue to make use of LECs' billing services, and LECs will only be alerted to the IP's deception when an end user complains.

It is preferable for IPs to use LEC billing for properly authorized information services. By amending the Rules to require that presubscription agreements are properly entered, the Commission ensures that IPs and end users will benefit from the convenience of LEC billing, and end users and LECs will have accurate call detail on bill statements.

II. A "TWO-CALL" PRESUBSCRIPTION PROCESS WILL NOT ENSURE THAT THE CALLING PARTY IS AUTHORIZED TO USE THE SERVICE.

The Commission proposes a modification of Section 64.1501(b) to require that presubscription agreements be in writing. This has received almost unanimous support as a means of preventing the instantaneous presubscription of a caller who may not be the authorized subscriber of telephone service. However, some have advocated a "two-call" presubscription process to establish a presubscription agreement.² SWBT submits that the "two-call" process is essentially in use today and has not appreciably lessened complaints of unauthorized charges. A mere requirement that presubscription take place on a call other than the one in which the caller is being charged is an insufficient means of validating whether the calling party is authorized to use the regulated service. SWBT thus does not support a "two-call" requirement.

III. SUGGESTIONS THAT LEC DATABASES CAN SERVE AS A SUBSTITUTE FOR WRITTEN PRESUBSCRIPTION AGREEMENTS ARE INCORRECT.

ITA claims that access to LECs' "900 blocking databases" would allow IPs to effectively block customers from information services offered over other dialing patterns. SWBT, however, does not presently have a "900 blocking database." 900 blocking is one of many services to which an end user may subscribe; SWBT retains 900 blocking and other service information in its Customer Record Information System (CRIS), which contains a record of all service and payment information of end user customers. Privacy

²See comments of Association of Information Providers at p. 2; Comments of Info Access at p. 13.

considerations make this System inaccessible to others. There is no practical means of segregating 900 blocking information from all other confidential information in the System. CRIS is simply not a validation database.

In urging access to a "900 blocking database," ITA erroneously assumes that a LEC has complete information as to which subscribers want access to 900 calls blocked. In actuality, the information possessed by a LEC is incomplete. Many business customers, including hotels, universities and hospitals, do not subscribe to 900 blocking service since 900 dialing can be blocked through their customer provided equipment.

One commenter, 900 Capital Services, Inc., asks the Commission to direct LECs to add "900 blocking database information" to LIDB. Assuming any privacy concerns could be allayed, SWBT agrees that the addition of this type of information could be useful to IPs and others desiring end user 900 blocking status information to apply to programs offered over other dialing patterns. However, such capacity does not presently exist.

SWBT believes that, ultimately, use of LIDB for this purpose as an additional tool may be a useful solution. SWBT has initiated efforts to determine if it is practical to add this functionality to its LIDB, and how soon such could be accomplished. While final quantification has not been developed, SWBT does not expect such capability to be available before late 1995 or early 1996. The market's willingness to participate in such an offering will also significantly impact availability. SWBT is willing, however, to continue exploration of such an offering.

IV. IPS, NOT LECS, SHOULD BEAR RESPONSIBILITY FOR CONFIRMING THAT THE PARTY TO BE BILLED IS THE SAME INDIVIDUAL WHO ENTERED THE WRITTEN PRESUBSCRIPTION AGREEMENT.

The Commission also proposes an amendment to Section 64.1510(b) to require common carriers to "obtain evidence" of the written presubscription agreement and to refrain from billing unless the signatory to the agreement is the party to be billed. Commenters dispute what it may mean to "obtain evidence" but are unified in describing the operational infeasibility of this concept.³ The effort required to manually review affidavits and update systems to accommodate such a process for hundreds of IPs serving millions of end users would be unmanageable and ineffective. LECs must rely on IPs or billing customers for information regarding each service provided by the IP, what transpired between a calling party and an IP attempting to establish a presubscription agreement, and whether the subscriber has rescinded the agreement. There is no mechanized way to handle such a process.

A more workable proposal will enable the FCC to require confirmation that the individual signing the presubscription agreement is the individual to be billed and will place this responsibility where it belongs--on the IP, not the billing LEC. Now that the FCC has required LECs to tariff Billing Name and Address (BNA) information, IPs (or the entities from whom they

³See Comments of AT&T at p. 12; Comments of MCI at p. 11; Comments of BellSouth at p. 2; Comments of Pacific Telesis at p. 6; Comments of Bell Atlantic at p. 2; Comments of ITA at p. 8; Comments of the Pennsylvania PUC at p. 8 and Comments of USTA at p. 3.

contract for billing) can match the name to ascertain whether the person entering the presubscription arrangement is truly the subscriber of the line and therefore the responsible billing party. BNA information is the best way an IP can verify that the name provided by the caller is truly that of the subscriber.⁴ Since BNA information is available today under FCC tariff, its use in the manner described above would necessitate no additional LEC expense for programming and personnel and would enhance the subscriber validation process.

V. THE 800 ACCESS CODE SHOULD NOT BE THE ONLY ONE PROTECTED BY THE NEW RULES.

Numerous commenters have observed that the dialing patterns subject to IP abuse are not limited to the 800 prefix. Concern has been expressed over IPs' increased use of international numbers and 10XXX access codes, neither of which is well understood by end users.⁵

SWBT initially proposed to extend the protections of Section 64.1504 to more dialing patterns than 800. SWBT failed to mention, however, that subsection (a) should be limited to "calls widely understood to be free." To clarify its proposal, SWBT submits modified Sections 64.1504 (a) and (b):

Common carriers shall prohibit, by contract or tariff, the use of any telephone number, other than a 900 number, in interstate and/or

⁴Although there is a minimal charge for BNA, it is appropriate for the provider of the information service to bear the cost of subscriber validation, not the LEC.

⁵Any amendments to Commission Rules should not be restricted to voice communications but should also address programs accessed via data networks and bulletin boards.

foreign communications, in a manner that would result in:

- (a) The calling party or the subscriber to the originating line being assessed by virtue of completing the call a charge for a call to any telephone number beginning with an 800 service access code or any other telephone number advertised or widely understood to be toll free;
- (b) The calling party being connected to a pay-per-call service or any other information service that is not provided in accordance with paragraph (c) of this section;

[(c) and (d) per original].

SWBT originally suggested a definition of "information services" aimed at certain IXCs which tariff a rate, allegedly for transmission, sufficiently high to compensate for the information "service" accessed through 10XXX dialing. Some commenters have claimed that anything tariffed should be exempt from the Act.⁶ One has boldly claimed that it is appropriate for an IXC to pay a "commission" to an IP for bringing service to its network.⁷

SWBT's concern with the tariffing of what should be an information service charge has been echoed by many. MCI describes

⁶See Comments of Pilgrim at p. 2; Comments of the Association of Information Providers at p. 7 and Comments of Info Access at p. 16.

⁷Comments of the Association of Information Providers, p. 6: "As to IP compensation for such calls, while it is unlawful to provide a rebate to a caller, there is nothing in the Communication Act to prevent a carrier from providing a commission to the IP from the tariffed rate for such services Clearly this practice is widespread and entirely lawful." This assertion has been made despite the Commission's observation in footnote 26 of the Order on Reconsideration and Further Notice of Proposed Rulemaking in this docket that such a practice "would appear to be both illegal and an effort by the carrier to evade the requirements of the TDDRA."

this as "the newest 'scam' of information service providers."⁸ The Commission has already clearly stated that splitting of tariffed fees between an IP and IXC is illegal, but for the benefit of those continuing to argue the point, the Commission should reaffirm the illegality of the practice.

VI. CONCLUSION

Any rule modification should alleviate end user complaints that (1) charges have been incurred without the consent of the subscriber, (2) charges have been incurred unknowingly (frequently due to confusion over 800, 10XXX and international dialing patterns) and (3) charges have been incurred despite the subscriber's efforts to block access to information services.

The requirement of a written presubscription agreement will address the first concern, but further modifications to the Rules must be made to address IPs' shift from 800 numbers to other dialing patterns. The third area of complaints should be addressed through prohibiting call transfers to toll services unless the call

⁸See Comments of MCI at p. ii.

is initiated through a 900 or other toll number. Absent such a restriction, end user dissatisfaction will persist.

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CERTIFICATE OF SERVICE

I, Katie M. Turner, hereby certify that the foregoing, "Reply of Southwestern Bell Telephone Company" in Docket No. 93-22, has been filed this 31st day of October, 1994 to the Parties of Record.

A handwritten signature in cursive script, reading "Katie M. Turner", written over a horizontal line.

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